

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

CHARLES DEMPSEY, individually, and
L.D. by her father and natural guardian,
CHARLES DEMPSEY,

Plaintiffs,

-against-

THE CITY OF ROCHESTER, a municipal
entity, JAVIER ALGARIN, ADAM
GORMAN, "JOHN DOE" RPD OFFICER
RESPONSIBLE FOR TRAINING JAVIER
ALGARIN,

Defendants.

19-cv-6780 (EAW)(MWP)

**NOTICE OF MOTION FOR
PARTIAL SUMMARY JUDGMENT
ON THE SECOND AND EIGHTH
CLAIMS FOR RELIEF, AND THE
PORTION OF THE FIRST CLAIM
FOR RELIEF UNDER *MONELL*
REGARDING UNLAWFUL ENTRIES
ONTO THE CURTILAGE OF
RESIDENTIAL PROPERTIES**

PLEASE TAKE NOTICE that upon the annexed Memorandum of Law in Support of Plaintiff's Motion for Partial Summary Judgment, Local Rule 56.1 Statement of Undisputed Facts, Declaration of Elliot Shields, Esq. and the Exhibits annexed thereto, and all prior proceedings herein, Plaintiffs hereby move this Court pursuant to Rule 56 of the Federal Rules of Civil Procedure for an order granting them partial summary judgment as to liability on the Second Claim for Relief for Unreasonable Search of Curtilage under 42 U.S.C. § 1983, the Eighth Claim for Relief for Trespass under New York Law, and the portion of the First Claim for Relief for Municipal Liability under *Monell* with respect to unlawful policies, practices and customs concerning unlawful entries into the curtilage of residential properties.

PLEASE TAKE FURTHER NOTICE, that pursuant to Rule 7(a)(1) of the Local Rules of this Court, the Plaintiff intends to file reply papers and therefore, pursuant to Rule 7(b)(2)(B),

Defendants are required to serve responding papers, if any, at least seven (7) days prior to the return date of this motion.

Dated: New York, New York
August 9, 2024

Respectfully Submitted,
ROTH & ROTH LLP

By: ~s/~
Elliot Dolby Shields, Esq.
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To: All parties (via ECF)